

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

ANTHONY D. PACE, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 4:11-CV-489 CAS
	)	
WELLS FARGO BANK, N.A.,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on plaintiffs’ Motion for Leave to File Response to Defendant’s Affirmative Defenses Out of Time. Plaintiffs seek leave to file a reply to defendant’s Answer and Affirmative Defenses filed March 21, 2011. For the following reasons, the motion will be denied.

Rule 7(a) of the Federal Rules of Civil Procedure specifies the pleadings that are permitted to be filed in a federal civil case. The Rule states:

**(a) Pleadings.** Only these pleadings are allowed:

- (1) a complaint;
- (2) an answer to a complaint;
- (3) an answer to a counterclaim designated as a counterclaim;
- (4) an answer to a crossclaim;
- (5) a third-party complaint;
- (6) an answer to a third-party complaint; and
- (7) if the court orders one, a reply to an answer.

Rule 7(a), Fed. R. Civ. P. (emphasis added).

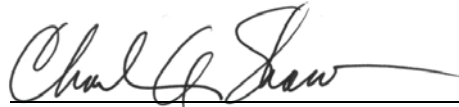
Under Rule 7, the pleadings generally conclude when there is a responsive pleading to a complaint, a third-party complaint, or an answer containing a counterclaim or crossclaim. 2 James Wm. Moore, et al., Moore’s Federal Practice § 7.02[7][a] (3d ed. 2011). “All defenses or allegations

in the last such responsive pleading are deemed to be denied, including affirmative defenses.” Id.; see Rule 8(b)(6), Fed. R. Civ. P. (“If a responsive pleading is not required, an allegation is considered denied or avoided.”). As a result, “a reply is allowed only on a court order and in limited circumstances.” 2 Moore’s Federal Practice § 7.02[7][a]. “A clear showing of necessity or of extraordinary circumstances of a compelling nature will usually be required before the court will order a reply. Even an allegation of new matter that goes beyond the allegations of the responsive pleading is not a sufficient ground for a reply.” 2 Moore’s Federal Practice § 7.02[7][b].

In this case, the defendants’ Answer does not contain a counterclaim and the Court did not order plaintiffs to file a reply to the Answer. The proposed reply submitted by plaintiffs seeks only to deny defendant’s affirmative defenses and does not indicate a clear showing of necessity or of extraordinary circumstances of a compelling nature. The Court will therefore deny plaintiffs’ motion for leave to file a reply out of time.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiffs’ Motion for Leave to File Response to Defendant’s Affirmative Defenses Out of Time is **DENIED**. [Doc. 30]

  
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**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 15th day of February, 2012.